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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,041	12/20/2001	James J. Conroy	CONROY	1821

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EXAMINER

ARK, DARREN W

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,041

Applicant(s)

CONROY, JAMES J.

Examiner

Darren W. Ark

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3-6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 31 December 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 3-6 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.
2. Applicant's election with traverse of Species V in Paper No. 4 is acknowledged. The traversal is on the ground(s) that "It is believed that any search for a insecticide dispensing device as shown in FIGS. 2C and 2D would include a search for an insecticide dispensing device in FIGS. 1A, 1B, 1C, 1D, 2A, 2B, and 3A and 3B...". This is not found persuasive because each of the embodiments shown in the FIGS. 1A, 1B, 1C, 1D, 2A, 2B, and 3A and 3B have respective features not required in the search for the embodiment disclosed in FIGS. 2C and 2D. For example, FIGS. 1A and 1B require a base with a polygonal cross section not required in Species V represented in Figs. 2C and 2D. Also for example, the embodiment of Figs. 3A and 3B require an internal chamber, a series of conduits, and a series of holes that are not required in the embodiment of Species V. If applicant is traversing on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to because Fig. 2B does not clearly represent the different views of Fig. 1A. Fig. 2B does accurately show the configuration of the first embodiment since in Fig. 1A the channels (22) are shown extending along the middle of the sides of the device whereas Fig. 2B shows the channel extending in a crooked fashion (it is unclear what Fig. 2B is intended to show). It is assumed that a front view in Fig. 2B would be similar to what is being shown in cross-section in Fig. 1A. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12/31/02 have been acknowledged by the Examiner but not approved due to the informality with regard to Fig. 2B stated above. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:
Page 5, lines 3 & 4, Figs. 2A-D do not necessarily illustrate the side views for each of the respective Figs. 1A-D (there is no side view of Fig. 1B or 1D). Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 7, 9, 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Greenway 1,471,954.

Greenway discloses a base (10); at least one elongated exposed indentation extending along the base (hollow portion of 10 extends along the long axis and is exposed at both ends and at 14 OR 14) a plurality of protrusions (12, point of 11, 13).

8. Claims 1, 2, 7, 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kristman 1,922,702.

Kristman discloses a base (A, B); at least one elongated exposed indentation (portion of A exposed for access by 3 OR corrugations of 3 which extend along the axis of the device); a plurality of protrusions (3).

9. Claims 1, 2, 7, 9, 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Davis 1,744,022.

Davis discloses a base (2); at least one elongated exposed indentation (hollow portion of 2 or 2' OR indentation presented around the top edge of 2 between 2 & 8--- see Fig. 4 for further detail); a plurality of protrusions (14).

Respons to Arguments

10. Applicant's arguments filed 12/31/02 have been fully considered but they are not persuasive.

In regard to applicant's arguments that "Greenway...cylindrical shell has a central hole or tube that...not an elongated indentation...", the Examiner contends that the curved inner surface of 10 forms an indentation that is exposed at either end of the device. Furthermore, the holes 14 form indentations that extend along the axis of the device and that the term "elongated" does not further define the length of the indentation.

In regard to applicant's arguments that "Kristman discloses a covered dish...", the Examiner argues that the claims do not further recite structure which define over the dish of Kristman. It merely recites an elongated indentation which Examiner contends is clearly represented by the portion (A) of Kristman having a length and the grooves of the corrugated portion (3) which have a length.

In regard to applicant's arguments concerning Davis and that "...is essentially a cover with a series of holes...", the Examiner argues that base 2 has an indentation with a length and that no particular length of the indentation has been claimed such that it defines over the indentation of Davis.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

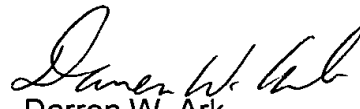
Art Unit: 3643


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195 for regular communications and (703) 306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Darren W. Ark
Primary Examiner
Art Unit 3643

DWA 
March 5, 2003